

# CONTENTS

## **Alaska Statute Title 29 - Municipal Government Selected Provisions .....1**

### **Chapter 04. Classification of Municipalities .....1**

Sec. 29.04.010. Home rule .....	1
Sec. 29.04.020. General law .....	1
Sec. 29.04.030. Classes of general law. ....	1
Sec. 29.04.040. Reclassification of cities .....	2
Sec. 29.04.050. Reclassification of second class boroughs. ....	3
Sec. 29.04.060. Reclassification of third class boroughs. ....	3

### **Chapter 05. Incorporation. ....4**

#### **Article 1. Requirements.....4**

Sec. 29.05.011. Incorporation of a city. ....	4
Sec. 29.05.021. Limitations on incorporation of a city .....	4
Sec. 29.05.031. Incorporation of a borough or unified municipality .....	5

#### **Article 2. Procedure.....6**

Sec. 29.05.060. Petition.....	6
Sec. 29.05.070. Review .....	7
Sec. 29.05.080. Investigation .....	7
Sec. 29.05.090. Hearing .....	7
Sec. 29.05.100. Decision.....	7
Sec. 29.05.110. Incorporation election.....	8
Sec. 29.05.120. Election of initial officials .....	9
Sec. 29.05.130. Integration of special districts and service areas .....	9
Sec. 29.05.140. Transition.....	10
Sec. 29.05.150. Challenge of legality.....	11

#### **Article 3. Transitional Assistance.....12**

Sec. 29.05.180. Organization grants to cities .....	12
Sec. 29.05.190. Organization grants to boroughs and unified municipalities.....	12
Sec. 29.05.200. Organization grant fund.....	13
Sec. 29.05.210. Transitional assistance to boroughs and unified municipalities .....	13

### **Chapter 06. Alteration of Municipalities.....14**

#### **Article 2. Annexation and Detachment.....14**

Sec. 29.06.040. Local Boundary Commission .....	14
Sec. 29.06.050. Annexation of military reservations .....	16
Sec. 29.06.060. Application .....	16

#### **Article 3. Merger and Consolidation .....16**

Sec. 29.06.090. Merger and consolidation .....	16
Sec. 29.06.100. Petition.....	16
Sec. 29.06.110. Review .....	17
Sec. 29.06.120. Hearing. ....	17
Sec. 29.06.130. Decision.....	17

Sec. 29.06.140. Election.....	17
Sec. 29.06.150. Succession to rights and liabilities. ....	18
Sec. 29.06.160. Transition.....	18
Sec. 29.06.170. Application. ....	18
<b>Article 5. Dissolution .....</b>	<b>19</b>
Sec. 29.06.450. Methods of dissolution. ....	19
Sec. 29.06.460. Petition.....	19
Sec. 29.06.470. Standards. ....	20
Sec. 29.06.480. Review.....	20
Sec. 29.06.490. Report and hearing.....	20
Sec. 29.06.500. Decision.....	20
Sec. 29.06.510. Election.....	21
Sec. 29.06.520. Succession. ....	21
Sec. 29.06.530. Application. ....	22

# Alaska Statute Title 29 - Municipal Government

## Selected Provisions

### Chapter 04. Classification of Municipalities

#### Section

- |                                 |                                                |
|---------------------------------|------------------------------------------------|
| 010. Home rule                  | 050. Reclassification of second class boroughs |
| 020. General law                |                                                |
| 030. Classes of general law     | 060. Reclassification of third class boroughs  |
| 040. Reclassification of cities |                                                |

#### Sec. 29.04.010. Home rule

A home rule municipality is a municipal corporation and political subdivision. It is a city or a borough that has adopted a home rule charter, or it is a unified municipality. A home rule municipality has all legislative powers not prohibited by law or charter. (§ 3 ch 74 SLA 1985)

**Notes to Decisions - Cited** in Keane v. Local Boundary Comm'n. 893 P.2d 1239 (Alaska 1995).

**"Local activity rule".** — Under a former, similar provision, the "local activity rule" was found to be an expedient method for resolving an impasse between state statutes which seek to further a specific policy and municipal ordinances which either directly or collaterally impede this implementation. Conflicts between state statutes and municipal ordinances generally were modulated by ruling in favor of the statutes. Chugach Elec. Ass'n v. City of Anchorage, Sup. Ct. Op. No. 647 (File No. 1152), 476 P.2d 115 (Alaska 1970).

A parallel provision to Alaska Const., art. X, § 11, was found in former AS 29.05.020, a similar provision. City of Fairbanks v. Schrock, Sup. Ct. Op. No. 567 (File No. 1032), 457 P.2d 242 (Alaska 1969).

**Collateral references.** — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, §§ 98-138.

62 C. J. S., Municipal Corporations, § 3, 4, 13, 187.

#### Sec. 29.04.020. General law.

A general law municipality is a municipal corporation and political subdivision and is an unchartered borough or city. It has legislative powers conferred by law. (§ 3 ch 74 SLA 1985)

**Notes to Decisions - Cited** in Kenai Peninsula Borough v. State, Dep't of Community & Regional Affairs, 751 P.2d 14 (Alaska 1988).

#### Sec. 29.04.030. Classes of general law.

General law municipalities are of five classes:

- (1) first class boroughs;
- (2) second class boroughs;
- (3) third class boroughs;

- (4) first class cities;
- (5) second class cities. (§ 3 ch 74 SLA 1985)

***Notes to Decisions***

**The statutory term "town"** has no technical meaning since under this title, which treats municipal government, incorporated municipalities may be either boroughs or cities, but not towns. *Dalton v. Interior Credit Bureau, Inc.*, Sup. Ct. Op. No. 2158 (File No. 4265), 615 P.2d 631 (Alaska 1980), decided under former, similar law.

**Cited** in *Kenai Peninsula Borough v. State, Dep't of Community & Regional Affairs*, 751 P.2d 14 (Alaska 1988).

**Sec. 29.04.040. Reclassification of cities.**

(a) A second class city may be reclassified as a first class city. A first class or home rule city may be reclassified as a second class city. Reclassification is proposed by filing a petition with the department. The department shall investigate the proposal and report its findings to the Local Boundary Commission with its recommendations. The commission shall hold at least one public hearing in the city on the proposal. The commission may amend the petition and may impose conditions on the reclassification. If the commission determines that the reclassification, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, meets the standards for incorporation under AS 29.05.011 for the class of city proposed in the reclassification petition, and is in the best interests of the state, it may accept the petition. Otherwise, it shall reject the petition. The commission shall notify the city of its decision. The decision may be appealed under AS 44.62 (Administrative Procedure Act).

(b) A petition proposing reclassification may be filed by

- (1) a number of voters equal to 15 percent of the number of votes cast in the city at the preceding regular election; or
- (2) the council.

(c) [Repealed, Sec. 31 ch 58 SLA 1994].

(d) The council shall, within 30 days after receiving notification from the Local Boundary Commission that a petition has been accepted, order an election on the question of reclassification. The election shall be held at least 30 days after the order and not later than the next regular election occurring after the 30-day period. If more than one question is to be voted on at the election, each shall appear separately on the ballot.

(e) The council shall certify the election results to the department. If the majority of votes cast is favorable, the city is reclassified 30 days after certification of the election results. (§ 3 ch 74 SLA 1985; am §§ 2 — 5, 31 ch 58 SLA 1994; am § 1 ch 86 SLA 1999)

***Effect of amendments.*** — The 1999 amendment, effective September 28, 1999, in subsection (a) added the sixth sentence, in the seventh sentence substituted “determines that the reclassification as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations,” for “determines that the city” and deleted “is in the best interests” and “or amend and accept” proceeding the “the petition”, and rewrote the eighth sentence.

The 1994 amendment, effective August 22, 1994, in subsection (a), rewrote the first sentence, made a related stylistic change, and added the second through eighth sentences; in subsection (b), rewrote the introductory language, deleted “may file a petition with the council” following “regular election” in

paragraph (1), and deleted “may propose reclassification” following “the council” from the end of paragraph (2); repealed subsection (c), relating to reclassification public hearings; in subsection (d), in the first sentence, substituted “after receiving notification from the Local Boundary Commission that a petition has been accepted” for “after its findings have been made public”; and, in subsection (e), in the second sentence, substituted “is reclassified 30 days after certification” for “shall be considered reclassified to first class status 30 days after certification.”

**Sec. 29.04.050. Reclassification of second class boroughs.**

A second class borough may reclassify as a first class borough in the manner provided by AS 29.35.320 - 29.35.330 for the addition of an areawide power by a first or second class borough, except the petition or proposal requests reclassification instead of requesting addition of a power. (§ 3 ch 74 SLA 1985)

**Sec. 29.04.060. Reclassification of third class boroughs.**

(a) A third class borough may reclassify as a first or second class borough in the manner provided by AS 29.35.320 - 29.35.330 for the addition of an areawide power by a first or second class borough, except the petition or proposal requests reclassification instead of requesting addition of a power. At the time of voting on reclassification of a third class borough to first or second class status, voters shall vote also on whether the borough shall, on reclassification, retain a combined assembly and school board or elect a separate assembly and board as otherwise provided for first and second class boroughs.

(b) If a combined assembly and school board are approved at the reclassification election, the assembly serving at the time of the election continues to serve as the assembly and board on voter approval of reclassification and until terms of assembly members expire as provided before reclassification.

(c) If a separate assembly and school board are approved at the reclassification election, a school board shall be elected in conformity with AS 14.12.030 - 14.12.100 at the next regular election, if it occurs within 90 days of the date of the reclassification election, or otherwise at a special election within 90 days of the date of the reclassification election. Expiration dates of terms of school board members elected at a special election must coincide with the date of the regular election. Until a board is elected and qualified, the assembly continues to serve as the board. (§ 3 ch 74 SLA 1985)

## Chapter 05. Incorporation.

### Article

1. Requirements (§§ 29.05.011 - 29.05.031)
2. Procedure (§§ 29.05.060 - 29.05.150)
3. Transitional Assistance (§§ 29.05.180 - 29.05.210)

### Article 1. Requirements.

#### Section

- |                                                                                        |                                                                |
|----------------------------------------------------------------------------------------|----------------------------------------------------------------|
| <p>011. Incorporation of a city</p> <p>021. Limitations on incorporation of a city</p> | <p>031. Incorporation of a borough or unified municipality</p> |
|----------------------------------------------------------------------------------------|----------------------------------------------------------------|

#### Sec. 29.05.011. Incorporation of a city.

(a) A community that meets the following standards may incorporate as a first class or home rule city:

- (1) the community has 400 or more permanent residents;
- (2) the boundaries of the proposed city include all areas necessary to provide municipal services on an efficient scale;
- (3) the economy of the community includes the human and financial resources necessary to provide municipal services; in considering the economy of the community, the Local Boundary Commission shall consider property values, economic base, personal income, resource and commercial development, anticipated functions, and the expenses and income of the proposed city, including the ability of the community to generate local revenue;
- (4) the population of the community is stable enough to support city government;
- (5) there is a demonstrated need for city government.

(b) A community that meets all the standards under (a) of this section except (a)(1) may incorporate as a second class city. (§ 4 ch 74 SLA 1985; am § 6 ch 58 SLA 1994)

**Effect of amendments.** — The 1994 amendment, effective August 22, 1994, inserted “or home rule” in the introductory language in subsection (a).

**Notes to Decisions - Stated** in *United States v. Pleier*, 849 F. Supp. 1321 (D. Alaska 1994).

**Lack of a valid legislative body would not prevent the valid incorporation of a municipality.** This conclusion is bolstered by noting that Alaska's newly-enacted Municipal Government Code has completely separated the statutes relating to the incorporation procedure from those relating to the borough's legislative body. *Jefferson v. State*, Sup. Ct. Op. No. 1084 (File No. 2000), 527 P.2d 37 (Alaska 1974), decided under former AS 29.18.010.

The incorporation of a municipality is a process both conceptually and functionally distinct from that of establishing a legislative body for that corporation. *Jefferson v. State*, Sup. Ct. Op. No. 1084 (File No. 2000), 527 P.2d 37 (1974), decided under former AS 29.18.010.

#### Sec. 29.05.021. Limitations on incorporation of a city

(a) A community in the unorganized borough may not incorporate as a city if the services to be provided by the proposed city can be provided by annexation to an existing city.

(b) A community within a borough may not incorporate as a city if the services to be provided by the proposed city can be provided on an areawide or nonareawide basis by the borough in which the proposed city is located, or by annexation to an existing city. (§ 4 ch 74 SLA 1985)

**Notes to Decisions - Subsection (b) is not in conflict with either AS 29.35.450(b) or Alaska Const., art. X, sec. 5;** rather AS 29.35.450(b), which follows the language of the Alaska Constitution, is a limitation on the creation of new service areas and in contrast, subsection (b) is a limitation on the incorporation of cities. *Keane v. Local Boundary Comm'n*, 893 P.2d 1239 (Alaska 1995).

### **Sec. 29.05.031. Incorporation of a borough or unified municipality**

(a) An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality:

(1) the population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government;

(2) the boundaries of the proposed borough or unified municipality conform generally to natural geography and include all areas necessary for full development of municipal services;

(3) the economy of the area includes the human and financial resources capable of providing municipal services; evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough or unified municipality;

(4) land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

(b) An area may not incorporate as a third class borough. (§ 4 ch 74 SLA 1985; am § 7 ch 58 SLA 1994)

**Cross references.** — For mandatory formation of certain boroughs, see § 3, ch. 52, SLA 1963 in the Temporary and Special Acts.

**Effect of amendments.** — The 1994 amendment, effective August 22, 1994, in subsection (a), added “, or as a unified municipality” at the end of the introductory language and inserted “or unified municipality” in paragraphs (2) and (3).

**Notes to Decisions - Consideration of non-statutory factors.** — Given the Alaska Constitution’s mandate that boroughs be cohesive “to the maximum degree possible,” the Local Boundary Commission acted well within the purview of its authority in considering the desirability of future incorporation of neighboring areas such as Prince William Sound and the interests of affected land owners and users such as the Chugach Alaska Corporation. *Petitioners for Incorporation of City & Borough v. Local Boundary Comm’n*, Sup. Ct. Op. No. 4192 File no. S-5760, P.2d (1995).

**Proposed area was not cohesive enough for organized borough government.** — See *Valleys Borough Support Comm. v. Local Boundary Comm’n*, 863 P.2d 232 (Alaska 1993).

**As to de facto incorporation,** see *Jefferson v. State*, Sup. Ct. Op. No. 1084 (File No. 2000), 527 P.2d 37 (Alaska 1974), decided under former, similar law.

**Legislation to organize a specific borough unconstitutional.** — Chapter 145, SLA 1974, by which the Eagle River-Chugiak Borough was organized, contravened the provisions of Alaska Const., art. II, § 19, since it

was special and local legislation creating a new local government without regard to the general statutory provisions that prescribe the method that otherwise governs the creation of new local governmental entities from existing ones. *Abrams v. State*, Sup. Ct. Op. No. 1142 (File No. 2407), 534 P.2d 91 (Alaska 1975), decided under former, similar law.

**Proposed area was not cohesive enough for organized borough government.** — See *Valleys Borough Support Comm. v. Local Boundary Comm'n*, 863 P.2d 232 (Alaska 1993).

**Applied** in *Lake & Peninsula Borough v. Local Boundary Comm'n*, 885 P.2d 1059 (Alaska 1994).

**Stated** in *United States v. Pleier*, 849 F. Supp. 1321 (D. Alaska 1994).

## Article 2. Procedure

### Section

060.	Petition	120.	Election of initial officials
070.	Review		
080.	Investigation	130.	Integration of special districts and service areas
090.	Hearing		
100.	Decision	140.	Transition
110.	Incorporation election	150.	Challenge of legality

### Sec. 29.05.060. Petition

Municipal incorporation is proposed by filing a petition with the department. The petition must include the following information about the proposed municipality:

- (1) class;
- (2) name;
- (3) boundaries;
- (4) maps, documents, and other information required by the department;
- (5) composition and apportionment of the governing body;
- (6) a proposed operating budget for the municipality projecting sources of income and items of expenditure through the first full fiscal year of operation;
- (7) for a borough or unified municipality, based on the number who voted in the respective areas in the last general election, the signature and resident address of 15 percent of the voters in
  - (A) home rule and first class cities in the area of the proposed borough or unified municipality; and
  - (B) the area of the proposed borough or unified municipality outside home rule and first class cities;
- (8) for a first class borough or unified municipality, a designation of areawide powers to be exercised;
- (9) for a second class borough, a designation of areawide and nonareawide powers to be exercised;
- (10) for a first class, second class, or home rule city, a designation of the powers to be exercised;
- (11) for a first class or home rule city, based on the number who voted in the area in the last general election, the signatures and resident addresses of 50 voters in the proposed city or of 15 percent of the voters in the proposed city, whichever is greater;



(12) for a second class city, based on the number who voted in the area in the last general election, the signatures and resident addresses of 25 voters in the proposed city or of 15 percent of the voters in the proposed city, whichever is greater;

(13) for a home rule city, home rule borough, or unified municipality a proposed home rule charter. (§ 4 ch 74 SLA 1985; am § 8 ch 58 SLA 1994)

**Effect of amendments.** — The 1994 amendment, effective August 22, 1994, substituted “must” for “shall” in the second sentence of the introductory language, inserted “or unified municipality” in three places in paragraph (7) and in one place in paragraphs (8) and (13), substituted “first class, second class, or home rule city” for “first or second class city” in paragraph (10), inserted “or home rule” in paragraph (11), and inserted “city, home rule” in paragraph (13).

### **Sec. 29.05.070. Review**

The department shall review an incorporation petition for content and signatures and shall return a deficient petition for correction and completion. (§ 4 ch 74 SLA 1985)

### **Sec. 29.05.080. Investigation**

(a) If an incorporation petition contains the required information and signatures, the department shall investigate the proposal and shall hold at least one public informational meeting in the area proposed for incorporation. The department shall publish notice of the meeting.

(b) The department may combine incorporation petitions from the same general area.

(c) The department shall report its findings to the Local Boundary Commission with its recommendations regarding the incorporation. (§ 4 ch 74 SLA 1985)

### **Sec. 29.05.090. Hearing**

The Local Boundary Commission shall hold at least one public hearing in the area proposed to be incorporated for the purpose of receiving testimony and evidence on the proposal. (§ 4 ch 74 SLA 1985)

### **Sec. 29.05.100. Decision**

(a) The Local Boundary Commission may amend the petition and may impose conditions on the incorporation. If the commission determines that the incorporation, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, meets the standards for incorporation under AS 29.05.011 or 29.05.031, and is in the best interests of the state, it may accept the petition. Otherwise it shall reject the petition.

(b) A Local Boundary Commission decision under this section may be appealed under AS 44.62 (Administrative Procedure Act). (§ 4 ch 74 SLA 1985; am § 9 ch 58 SLA 1994; am § 2 ch 86 SLA 1999)

**Effect of amendments.** — the 1999 amendment, effective September 28, 1999, rewrote subsection (a).

The 1994 amendment, effective August 22, 1994, in subsection (a), substituted “may accept” for “shall accept” and inserted “or amend” in the second sentence, deleted “If the commission determines that the proposed municipal boundaries can be altered to meet the standards, it may alter the boundaries” preceding “and accept the petition” in the former third sentence, and made a related stylistic change.

**Collateral references.** — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 28 et seq.

62 C. J. S., Municipal Corporations, § 6 et seq.

**Notes to Decisions - Power to redraw petition boundaries.** — By requiring that each borough “embrace an area and population with common interests to the maximum extent possible,” Alaska Const. art. X, § 3 necessarily vests the Local Boundary Commission with power to find non-compliance when the boundaries originally described in a petition for incorporation do not maximize common interests. Thus, although subsection (a) requires a preliminary finding of non-compliance before the boundaries of a proposed borough may be altered, the Local Boundary Commission, in passing on the issue of compliance, has broad authority to decide what the most appropriate boundaries of the proposed borough would be. *Petitioners for Incorporation of City & Borough v. Local Boundary Comm’n*, Sup. Ct. Op. No. 4192 File No. S-5760, P.2d (1995) (decided prior to 1994 amendment).

**Implied finding of non-compliance.** — A finding of non-compliance under subsection (a) may be made either expressly or by implication. *Petitioners for Incorporation of City & Borough v. Local Boundary Comm’n*, Sup. Ct. Op. No. 4192 File No. S-5760, P.2d (1995).

Because the Local Boundary Commission based its decision that the 141st Meridian was the most appropriate boundary for the proposed borough on criteria reflecting the common interests on the area and its population, and because the Local Boundary Commission plainly meant its decision to ensure that the area and population to be included in the approved borough would be maximally cohesive, the decision itself was tantamount to a declaration that the originally proposed boundaries did not comply with the standards for incorporation. *Petitioners for Incorporation of City & Borough v. Local Boundary Comm’n*, Sup. Ct. Op. No. 4192 File No. S-5760, P.2d (1995).

**Consideration of non-statutory factors.** — Given the Alaska Constitution’s mandate that boroughs be cohesive “to the maximum degree possible,” the Local Boundary Commission acted well within the purview of its authority in considering the desirability of future incorporation of neighboring areas such as Prince William Sound and the interests of affected land owners and users such as the Chugach Alaska Corporation. *Petitioners for Incorporation of City & Borough v. Local Boundary Comm’n*, Sup. Ct. Op. No. 4192 File No. S-5760, P.2d (1995).

**Action not subject to defense of laches.** — Action by villages in superior court for declaratory and injunctive relief objecting to the incorporation of a borough was timely filed; the action proceeded at law and the equitable defense of laches was inapplicable. *Lake & Peninsula Borough v. Local Boundary Comm’n*, 885 P.2d 1059 (Alaska 1994).

### Sec. 29.05.110. Incorporation election

(a) The Local Boundary Commission shall immediately notify the director of elections of its acceptance of an incorporation petition. Within 30 days after notification, the director of elections shall order an election in the proposed municipality to determine whether the voters desire incorporation and, if so, to elect the initial municipal officials. If incorporation is rejected, no officials are elected. The election shall be held not less than 30 or more than 90 days after the date of the election order. The election order must specify the dates during which nomination petitions for election of initial officials may be filed.

(b) A voter who has been a resident of the area within the proposed municipality for 30 days before the date of the election order may vote.

(c) Areawide borough powers included in an incorporation petition are considered to be part of the incorporation question. In an election for the incorporation of a second class borough, each nonareawide power to be exercised is placed separately on the ballot. Adoption of a

nonareawide power requires a majority of the votes cast on the question, and the vote is limited to the voters residing in the proposed borough but outside all cities in the proposed borough.

(d) A home rule charter included in an incorporation petition under AS 29.05.060(13) is considered to be part of the incorporation question. The home rule charter is adopted if the voters approve incorporation of the city, borough, or unified municipality.

(e) The director of elections shall supervise the election in the general manner prescribed by the AS 15 (Election Code). The state shall pay all election costs under this section. (§ 4 ch 74 SLA 1985; am § 10 ch 58 SLA 1994)

**Effect of Amendments.** — The 1994 amendment, effective August 22, 1994, substituted “the city, borough, or unified municipality” for “the borough” in the second sentence in subsection (d).

**Collateral references.** — 25 Am. Jur. 2d, Elections, § 1 et seq.  
63 C. J. S., Municipal Corporations, § 1032.

### **Sec. 29.05.120. Election of initial officials**

(a) Nominations for initial municipal officials are made by petition. The petition shall be in the form prescribed by the director of elections and must include the name and address of the nominee and a statement of the nominee that the nominee is qualified under the provisions of this title for the office that is sought. A person may file for and occupy more than one office, but may not serve simultaneously as

(1) borough mayor and as a member of the assembly; or

(2) city mayor and as a member of the council in a first class city.

(b) Except for a proposed second class city, petitions to nominate initial officials must include the signature and resident address of 50 voters in the area of the proposed municipality, or that area of the proposed municipality from which the officials are to be elected under the composition and apportionment set out in the accepted incorporation petition.

(c) Petitions to nominate initial officials of a second class city must include the signature and resident address of 10 voters in the area of the proposed city.

(d) The director of elections shall supervise the election in the general manner prescribed by the AS 15 (Election Code). The state shall pay all election costs.

(e) The initial elected officials take office on the first Monday following certification of their election.

(f) The initial elected members of the governing body shall determine by lot the length of their terms of office so that a proportionate number of terms expire each year, resulting in staggered terms of office for members subsequently elected. (§ 4 ch 74 SLA 1985)

**Collateral references.** — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 140 et seq.  
62 C. J. S., Municipal Corporations, §§ 152-155.

### **Sec. 29.05.130. Integration of special districts and service areas**

(a) A service area in a newly incorporated municipality shall be integrated into the municipality within two years after the date of incorporation. On integration the municipality succeeds to all the rights, powers, duties, assets, and liabilities of the service area. On integration all property in the service area subject to taxation to pay the principal and interest on bonds at the time of integration remains subject to taxation for that purpose.

(b) After integration, the municipality may exercise in a former service area all of the rights and powers exercised by the service area at the time of integration, and, as successor to the service area, may levy and collect special charges, taxes, or assessments to amortize bonded

indebtedness incurred by the service area or by a municipality in which the service area was formerly located. (§ 4 ch 74 SLA 1985)

**Cross References.** — For constitutional provision as to integrating existing special service districts into new boroughs, see Alaska Const., art. X, § 15.

**Opinions of Attorney General.** — When boroughs assumed powers previously exercised by service areas, public utility districts, and school districts, they were required to assume the following duties: contractual obligations, and liability on bonded and other indebtedness under a former, similar provision. 1963 Op. Att'y Gen. No. 29.

#### **Sec. 29.05.140. Transition**

(a) The powers and duties exercised by cities and service areas that are succeeded to by a newly incorporated municipality continue to be exercised by the cities and service areas until the new municipality assumes the powers and functions, which may not exceed two years after the date of incorporation. Ordinances, rules, resolutions, procedures, and orders in effect before the transfer remain in effect until superseded by the action of the new municipality.

(b) Before the assumption, the new municipality shall give written notice of its assumption of the rights, powers, duties, assets, and liabilities under this section and AS 29.05.130 to the city or service area concerned. Municipal officials shall consult with the officials of the city or service area concerned and arrange an orderly transfer.

(c) After the incorporation of a new municipality, a service area in it may not assume new bonded indebtedness, make a contract, or transfer an asset without the consent of the governing body.

(d) Upon incorporation, the home rule charter of a unified municipality operates to dissolve all municipalities in the area unified in accordance with the charter.

(e) This section applies to home rule and general law municipalities. (§ 4 ch 74 SLA 1985; am § 11 ch 58 SLA 1994)

**Revisor's notes.** — Subsection (d) was enacted as (e). Relettered in 1994, at which time former (d) was relettered as (e).

**Effect of amendments.** — The 1994 amendment, effective August 22, 1994, added present subsection (d).

**Opinions of Attorney General.** — Under a former, similar provision, city ordinances affecting public health remained in effect for a period not to exceed two years from the date of the borough's incorporation or until superseded by ordinances passed by the borough, and it was superfluous to include this in the incorporation petition. 1962 Op. Att'y Gen. No. 9.

A teacher who had served a two-year probationary period in a rural or district school, and who obtained tenure in that school, retained his tenure status when the school became part of an organized borough under a former, similar provision. 1963 Op. Att'y Gen. No. 11.

A former, similar provision provided for a two-year transition period during which the organized borough had to assume the powers of any school district within its boundaries. The statute did not make this transition period applicable to state-operated schools, since such schools existed only outside of city school districts, incorporated school districts, and independent school districts. 1963 Op. Att'y Gen. No. 23.

Under a former, similar provision, a newly incorporated borough assumed administrative responsibility for a state-operated school within its boundaries immediately after incorporation. 1963 Op. Att'y Gen. No. 23.

A former, similar provision provided that an organized borough would provide, establish, maintain, and operate the schools within its boundaries. Ownership of state-operated schools had to be conveyed by the state to the local school district as soon as possible after incorporation. The transfer of direct administration of these schools should have been made shortly after incorporation, prior to the beginning of the next fiscal year, and as quickly as was consistent with continuity of operation and efficient management. 1963 Op. Att'y Gen. No. 23.

The clear meaning of a former, similar provision was that after the incorporation of an organized borough and until the powers exercised by service areas and special districts were assumed by the borough, service areas and special districts could not assume new bonded indebtedness, make any contract, or transfer any asset without first receiving the consent of the borough assembly. There was no limitation on the type of contract into which the service area or special district might enter except that the approval of the borough assembly first be obtained. 1963 Op. Att'y Gen. No. 29.

A former, similar provision provided a safeguard for the boroughs to assure that special service districts, public utility districts and school districts did not incur financial obligations which were not in the best interest of the borough during the transition period between the organization of the borough and date at which the powers presently exercised by the service areas and service districts were assumed by the borough. 1963 Op. Att'y Gen. No. 29.

Under a former, similar provision, when boroughs assumed powers previously exercised by service areas, public utility districts, and school districts, they were required to assume the following duties: contractual obligations, and liability on bonded and other indebtedness. 1963 Op. Att'y Gen. No. 29.

A borough had to repay a city for advances made from city general fund to pay debts incurred in behalf of the city school district under a former, similar provision. 1965 Op. Att'y Gen. No. 1.

If a borough failed to pay city school district obligations, as required by a former, similar provision, the city or other creditors might enforce payment. 1965 Op. Att'y Gen. No. 1.

Though a borough was liable to pay the city school district's obligations under a former, similar provision, the Department of Education had no authority to require that the borough place a share of state support money into special accounts to be used only for this purpose. 1965 Op. Att'y Gen. No. 1.

### Sec. 29.05.150. Challenge of legality

A person may not challenge the formation of a municipality except within six months after the date of its incorporation. (§ 4 ch 74 SLA 1985)

**Notes to Decisions - Laches.** — Action by villages in superior court for declaratory and injunctive relief objecting to the incorporation of a borough was timely filed; the action proceeded at law and the equitable defense of laches was inapplicable. *Lake & Peninsula Borough v. Local Boundary Comm'n*, 885 P.2d 1059 (Alaska 1994).

**Laches.** — In a contest over the validity of a unit of municipal government, laches can be raised as a defense to such a claim. *Concerned Citizens v. Kenai Peninsula Borough*, Sup. Ct. Op. No. 1093 (File No. 2239), 527 P.2d 447 (Alaska 1974), decided under former, similar law.

**Collateral references.** — 56 Am. Jur. 2d, *Municipal Corporations, Counties, and Other Political Subdivisions*, §§ 28-38.

62 C. J. S., *Municipal Corporations*, §§ 8, 36.

Estoppel as to validity of organization of municipality by recitals in bonds. 86 ALR 1088; 158 ALR 938.

Injunction to restrain enforcement of municipal tax upon ground involving attack upon legal existence of municipality. 129 ALR 257.

Power of district or prosecuting attorney to bring action of quo warranto attacking existence of municipal corporation. 131 ALR 1219.

Organization thought to be incorporated under unconstitutional statute as a de facto corporation. 136 ALR 193.

Capacity to attack the fixing or extension of municipal limits or boundary. 13 ALR2d 1279.

### Article 3. Transitional Assistance

#### Section

180.	Organization grants to cities	200.	Organization grant fund
190.	Organization grants to boroughs and unified municipalities	210.	Transitional assistance to boroughs and unified municipalities

**Notes to Decisions** - A municipal corporation was liable for reasonable legal expenses incurred in its formation. *Arctic Slope Native Ass'n v. Paul*, Sup. Ct. Op. No. 2058 (File Nos. 3792, 3793, 3806), 609 P.2d 32 (Alaska 1980), decided under former, similar law.

#### Sec. 29.05.180. Organization grants to cities

(a) To defray the cost of transition to city government and to provide for interim government operations, each city incorporated after December 31, 1985 is entitled to an organization grant of \$50,000 for the first full or partial fiscal year after incorporation.

(b) To defray the cost of reclassification, each second class city in the unorganized borough incorporated before January 1, 1986 that reclassifies as a first class city or adopts a home rule charter after December 31, 1985 is entitled to an organization grant equal to \$50,000 for the first full or partial fiscal year after reclassification.

(c) The department shall disburse an organization grant under (a) or (b) of this section within 30 days after certification of the incorporation, reclassification, or home rule charter election, or as soon after certification as money is appropriated and available for the purpose.

(d) A city entitled to an organization grant under (a) or (b) of this section is entitled to a second organization grant of \$25,000. The department shall disburse the second organization grant within 30 days after the beginning of the city's second fiscal year after incorporation, reclassification, or adoption of a home rule charter or as soon after that time as money is appropriated and available for the purpose. (§ 4 ch 74 SLA 1985)

**Opinions of the Attorney General.** A new municipality may use organization grant money issued to new municipalities under AS 29.05.180 – 29.05.190 for any public purpose that relates to the cost of transition or interim government operations. Costs of litigation challenging a Local Boundary Commission decision is a legitimate public purpose and is an allowed use under AS 29.05.090. March 31, 1993 Op. Att'y Gen.

#### Sec. 29.05.190. Organization grants to boroughs and unified municipalities

(a) For the purpose of defraying the cost of transition to borough government and to provide for interim governmental operations, each borough or unified municipality incorporated after December 31, 1985, is entitled to organization grants as follows:

- (1) \$300,000 for the municipality's first full or partial fiscal year;
- (2) \$200,000 for the municipality's second fiscal year; and
- (3) \$100,000 for the municipality's third fiscal year.

(b) The department shall disburse the first organization grant to a borough or unified municipality within 30 days after certification of the election favoring incorporation, or as soon after that as money is appropriated and available for the purpose. The second grant shall be disbursed within 30 days after the beginning of the municipality's second fiscal year, or as soon after that as money is appropriated and available for the purpose. The third grant shall be disbursed within 30 days after the beginning of the municipality's third fiscal year, or as soon after that as money is appropriated and available for the purpose.

(c) This section does not apply to a borough incorporated by consolidation or to a unified municipality that occupies the area formerly occupied by a borough. (§ 4 ch 74 SLA 1985; am § 12 ch 58 SLA 1994)

**Effect of amendments.** — The 1994 amendment, effective August 22, 1994, inserted “or unified municipality” in the introductory language of subsection (a) and in the first sentence of subsection (b); substituted “municipality’s” for “borough’s” in paragraphs (a)(1)-(a)(3) and in the second and third sentences of subsection (b); substituted “the election favoring incorporation” for “the incorporation election favoring incorporation of a borough” in the first sentence in subsection (b); and, in subsection (c), added “that occupies the area formerly occupied by a borough” to the end.

#### **Sec. 29.05.200. Organization grant fund**

(a) The organization grant program is established in the department. An appropriation made to the program shall be used for organization grants to municipalities that qualify under AS 29.05.180 or 29.05.190.

(b) Before August 31 of each fiscal year the department shall submit a report to the Department of Administration indicating

(1) each municipality expected to qualify to receive an organization grant during the next fiscal year;

(2) the amount of money needed to cover all organization grants expected to be awarded during the next fiscal year. (§ 4 ch 74 SLA 1985; am § 1 ch 43 SLA 1997)

**Effect of Amendments.** The 1997 amendment, effective July 1, 1997, substituted “program” for “fund” in two places in subsection (a).

#### **Sec. 29.05.210. Transitional assistance to boroughs and unified municipalities**

(a) Within 30 days after the date of incorporation of a borough or unified municipality incorporated after December 31, 1985, the department shall determine the population of the borough or unified municipality.

(b) The department shall provide assistance to each borough and unified municipality incorporated after December 31, 1985, in

(1) establishing the initial sales and use tax assessment and collection department if the borough or unified municipality has adopted a sales or use tax;

(2) determining the initial property tax assessment roll if the borough or unified municipality has adopted a property tax, including contracting for appraisals of property needed to complete the initial assessment.

(c) This section does not apply to a borough incorporated by consolidation or to a unified municipality that occupies the area formerly occupied by a borough. (§ 4 ch 74 SLA 1985; am § 13 ch 58 SLA 1994)

**Effect of amendments.** — The 1994 amendment, effective August 22, 1994, inserted “or unified municipality” in two places in subsection (a) and in one place in paragraphs (b)(1) and (b)(2), inserted “and unified municipality” in the introductory language of subsection (b), and added “that occupies the area formerly occupied by a borough” at the end of subsection (c).

## Chapter 06. Alteration of Municipalities

### Article 2. Annexation and Detachment

#### Section

040.	Local Boundary Commission	060.	Application
050.	Annexation of military reservations		

#### Sec. 29.06.040. Local Boundary Commission

(a) The Local Boundary Commission may consider any proposed municipal boundary change. The commission may amend the proposed change and may impose conditions on the proposed change. If the commission determines that the proposed change, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations and is in the best interests of the state, it may accept the proposed change. Otherwise it shall reject the proposed change. A Local Boundary Commission decision under this subsection may be appealed under AS 44.62 (Administrative Procedure Act).

(b) The Local Boundary Commission may present a proposed municipal boundary change to the legislature during the first 10 days of a regular session. The change becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

(c) In addition to the regulations governing annexation by local action adopted under AS 44.33.812, the Local Boundary Commission shall establish procedures for annexation and detachment of territory by municipalities by local action. The procedures established under this subsection must include a provision that

(1) a proposed annexation and detachment must be approved by a majority of votes on the question cast by voters residing in the area proposed to be annexed or detached;

(2) municipally owned property adjoining the municipality may be annexed by ordinance without voter approval; and

(3) an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters in the area petition the governing body.

(d) A boundary change effected under (a) and (b) of this section prevails over a boundary change initiated by local action, without regard to priority in time. (§ 5 ch 74 SLA 1985; am § 14 ch 58 SLA 1994; am § 36 ch 30 SLA 1996; am § 29 ch 58 SLA 1999; am § 3 ch 86 SLA 1999)

**Effect of amendments.** — The first 1999 amendment, effective July 1, 1999, made a section reference substitution in the introductory language of subsection (c).

The second 1999 amendment, effective September 28, 1999, rewrote subsection (a).

The 1996 amendment, effective May 16, 1996, inserted “must” in the second sentence of subsection (c).



The 1994 amendment, effective August 22, 1994, in subsection (a), in the second sentence, substituted “amend” for “alter the boundaries” and deleted “as altered” at the end.

**Cross References.** — For further provisions relating to Local Boundary Commission procedures, see AS 44.33.810 - 44.33.828.

**Notes to Decisions - Defining boundaries is a legislative function.** — The creation of municipalities, and the defining of the extent of the boundaries thereof, involve the exercise of legislative, not judicial, power. *Town of Fairbanks v. Barrack*, 282 F. 417 (9th Cir. 1922), cert. denied, 261 U.S. 615, 43 S. Ct. 361, 67 L. Ed. 828 (1923); *In re Annexation to City of Anchorage*, 146 F. Supp. 98 (D. Alaska 1956), decided under former, similar law.

**Expansion of municipal boundaries is matter of statewide concern.** — Those who reside or own property in the area to be annexed have no vested right to insist that annexation take place only with their consent. The subject of expansion of municipal boundaries is legitimately the concern of the state as a whole, and not just that of the local community. *Fairview Pub. Util. Dist. No. 1 v. City of Anchorage*, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540 (Alaska), appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962), decided under former, similar law.

**Annexation procedure may be changed.** — The state may permit residents of local communities to determine annexation questions at an election. But when this has been done, the state is not irrevocably committed to that arrangement. If the citizens of the state, in adopting a constitution, decide that it is in the public interest to establish another election procedure, there is no constitutional obstacle to that course of action. *Fairview Pub. Util. Dist. No. 1 v. City of Anchorage*, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540 (Alaska), appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962), decided under former, similar law.

**One proceeding for annexing several tracts.** — See *In re Town of Sitka*, 11 Alaska 201 (1946), decided under former, similar law.

**Areas in public utility district may be annexed.** — The fact that the areas are embraced within a public utility district constitutes no bar to annexation. *In re Annexation to City of Anchorage*, 129 F. Supp. 551 (D. Alaska 1955), decided under former, similar law. See *Fairview Pub. Util. Dist. No. 1 v. City of Anchorage*, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540 (Alaska), appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962), decided under former, similar law.

**Consent of voters in district required if annexation proceeds under this article.** — The provision of former AS 42.35.370 providing for dissolution of a utility district with the consent of the voters when “the whole or the integral part of a district becomes annexed to an incorporated city” has application only where annexation takes place under the petition-election procedure of this article and has no application where annexation takes place under a different method established by Alaska Const., art. X, § 12. *Fairview Pub. Util. Dist. No. 1 v. City of Anchorage*, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540 (Alaska), appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962), decided under former, similar law.

**Collateral references.** — 56 Am. Jur. 2d, *Municipal Corporations, Counties, and Other Political Subdivisions*, §§ 55-80, 137.

62 C. J. S., *Municipal Corporations*, §§ 42-46.

Capacity to attack the fixing or extension of municipal limits or boundary. 13 ALR2d 1279; 17 ALR5th 195.

Proper remedy or procedure for attacking legality of proceedings annexing territory to municipal corporation. 18 ALR2d 1255.

What zoning regulations are applicable to territory annexed to a municipality. 41 ALR2d 1463.

What land is contiguous or adjacent to municipality so as to be subject to annexation. 49 ALR3d 589; 64 ALR3d 187.

Right of one governmental subdivision to challenge annexation proceedings by another such subdivision. 17 ALR5th 195.

### **Sec. 29.06.050. Annexation of military reservations**

A military reservation may be annexed to a municipality in the same manner as prescribed for other territory under AS 29.06.040. If a city in a borough annexes a military reservation under this section, the area encompassing the military reservation automatically is annexed to the borough in which the city is located. (§ 5 ch 74 SLA 1985)

### **Sec. 29.06.060. Application**

AS 29.06.040 - 29.06.060 apply to home rule and general law municipalities. (§ 5 ch 74 SLA 1985)

## **Article 3. Merger and Consolidation**

### Section

090.	Merger and consolidation	140.	Election
100.	Petition	150.	Succession to rights and liabilities
110.	Review	160.	Transition
120.	Hearing	170.	Application
130.	Decision		

### **Sec. 29.06.090. Merger and consolidation**

(a) Two or more municipalities may merge or consolidate to form a single general law or home rule municipality, except a third class borough may not be formed through merger or consolidation.

(b) Two methods may be used to initiate merger or consolidation of municipalities:

(1) petition to the Local Boundary Commission under regulations adopted by the commission; or

(2) the local option method specified in AS 29.06.100 — 29.06.160. (§ 5 ch 74 SLA 1985; am § 15 ch 58 SLA 1994)

**Effect of amendments.** — The 1994 amendment, effective August 22, 1994, inserted “general law or home rule” in subsection (a).

**Collateral references.** — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, §§ 81, 82.

62 C. J. S., Municipal Corporations, §§ 47, 85-87.

### **Sec. 29.06.100. Petition**

(a) Residents of two or more municipalities may file a merger or consolidation petition with the department. The petition must be signed by a number of voters of each existing municipality equal to at least 25 percent of the number of votes cast in each municipality's last regular election.

(b) The petition includes

(1) the name and class of each existing municipality;

(2) the name and class of the proposed municipality;

(3) the proposed composition and apportionment of the governing body;

(4) maps, documents, and other information that shows that the proposed municipality meets the standards for municipal incorporation;

(5) for a home rule municipality, a proposed home rule charter. (§ 5 ch 74 SLA 1985; am § 16 ch 58 SLA 1994)

*Effect of amendments.* — The 1994 amendment, effective August 22, 1994, added paragraph (b)(5) and made a related stylistic change.

#### **Sec. 29.06.110. Review**

(a) The department shall review a merger or consolidation petition for content and signatures and shall return a deficient petition for correction or completion.

(b) If the petition contains the required information and signatures, the department shall investigate the proposal.

(c) The department shall report its findings to the Local Boundary Commission with its recommendations regarding the merger or consolidation. (§ 5 ch 74 SLA 1985)

#### **Sec. 29.06.120. Hearing.**

After receipt of the report by the department on a merger or consolidation petition, the Local Boundary Commission shall hold at least one public hearing in each of the existing municipalities included in the petition, unless officials of the municipalities agree to a single hearing. (§ 5 ch 74 SLA 1985)

#### **Sec. 29.06.130. Decision.**

(a) The Local Boundary Commission may amend the petition and may impose conditions for the merger or consolidation. If the commission determines that the merger or consolidation, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, the municipality after the merger or consolidation would meet the standards for incorporation under AS 29.05.011 or 29.05.031, and the merger or consolidation is in the best interests of the state, it may accept the petition. Otherwise, it shall reject the petition.

(b) A Local Boundary Commission decision under this section may be appealed under AS 44.62 (Administrative Procedure Act). (§ 5 ch 74 SLA 1985; am § 17 ch 58 SLA 1994; am § 4 ch 86 SLA 1999)

*Effect of amendments.* — The 1999 amendment, effective September 28, 1999, rewrote subsection (a).

The 1994 amendment, effective August 22, 1994, in subsection (a), substituted “may accept the petition or amend” for “shall accept the petition” in the second sentence, deleted “If the commission determines that the proposed boundaries or the composition and apportionment of the governing body can be altered to meet the standards, it may alter the proposal” preceding “and accept the petition” in the former third sentence, and made a related stylistic change.

#### **Sec. 29.06.140. Election**

(a) The Local Boundary Commission shall immediately notify the director of elections of its acceptance of a merger or consolidation petition. Within 30 days after notification, the director of elections shall order an election in the area to be included in the new municipality to determine whether the voters desire merger or consolidation. The election shall be held not less than 30 or more than 90 days after the election order. A voter who is a resident of the area to be included in the proposed municipality may vote.

(b) A home rule charter in a merger or consolidation petition submitted under AS 29.06.100(b)(5) is part of the merger or consolidation question. The charter is adopted if the voters approve the merger or consolidation. The director of elections shall supervise the election in the general manner prescribed by the AS 15 (Election Code). The state shall pay all election costs.

(c) The director of elections shall certify the election results. If merger or consolidation is approved, the director of elections shall, within 10 days, set a date for election of officials of the new municipality. The election date shall be not less than 60 or more than 90 days after the election order and it is the effective date for the merger or consolidation. (§ 5 ch 74 SLA 1985; am § 18 ch 58 SLA 1994)

*Effect of amendments.* — The 1994 amendment, effective August 22, 1994, added the present first and second sentences in subsection (b).

#### **Sec. 29.06.150. Succession to rights and liabilities.**

(a) When two or more municipalities merge, one succeeds to the rights, powers, duties, assets, and liabilities of the others.

(b) When two or more municipalities consolidate, the newly incorporated municipality succeeds to the rights, powers, duties, assets, and liabilities of the consolidated municipalities. (§ 5 ch 74 SLA 1985)

*Opinions of the attorney general.* — Since general grant land entitlements are considered vested property rights, the practical effect of this section is that merger or consolidation does not create the right to an additional entitlement. The merger or consolidation itself does not create any additional entitlement or trigger AS 29.65.030(a). September 16, 1993 Op. Att’y Gen.

#### **Sec. 29.06.160. Transition.**

After merger or consolidation, the ordinances, resolutions, regulations, procedures, and orders of the former municipalities remain in force in their respective territories until superseded by the action of the new municipality. (§ 5 ch 74 SLA 1985)

#### **Sec. 29.06.170. Application.**

AS 29.06.090 - 29.06.170 apply to home rule and general law municipalities. (§ 5 ch 74 SLA 1985)

## Article 5. Dissolution

### Section

450. Methods of dissolution	500. Decision
460. Petition	510. Election
470. Standards	520. Succession
480. Review	530. Application
490. Report and hearing	

### Sec. 29.06.450. Methods of dissolution.

- (a) Two petition methods may be used to initiate dissolution of a municipality:
- (1) petition to the Local Boundary Commission under regulations adopted by the commission; or
  - (2) the local option method specified in AS 29.06.460 - 29.06.510.
- (b) The department shall investigate a municipality that it considers to be inactive and shall report to the Local Boundary Commission on the status of the municipality. The commission may submit its recommendation to the legislature that the municipality be dissolved in the manner provided for submission of boundary changes in art. X, sec. 12 of the state constitution.
- (c) A borough is dissolved when its entire territory is included in a home rule or first class city or cities. A city is dissolved when all its powers become areawide borough powers. (§ 5 ch 74 SLA 1985)

**Notes to Decisions – Legislature empowered to construct constitutional scheme for dissolution.** — Since Alaska Const., art. X, § 7, says dissolved "in the manner" provided by the legislature, it empowers the legislature to construct any otherwise constitutional scheme for dissolution, rather than requiring the legislature to perform the dissolution. *City of Douglas v. City & Borough of Juneau*, Sup. Ct. Op. No. 672 (File No. 1379), 484 P.2d 1040 (Alaska 1971), decided under former, similar law.

**Collateral references.** — 56 Am. Jur. 2d, *Municipal Corporations, Counties, and Other Political Subdivisions*, §§ 89-97.

### Sec. 29.06.460. Petition.

- (a) Voters of a municipality may file a dissolution petition with the department in the form prescribed by the department. The petition must be signed by a number of voters equal to at least 25 percent of the number of votes cast in the last regular election in that municipality.
- (b) The petition must include
- (1) the name of the municipality;
  - (2) maps, documents, and other information showing that the municipality meets the standards for dissolution. (§ 5 ch 74 SLA 1985)

**Notes to Decisions -** Cited in *Lake & Peninsula Borough v. Local Boundary Comm'n*, 885 P.2d 1059 (Alaska 1994).

**Sec. 29.06.470. Standards.**

(a) Except as provided in (b) of this section, voters of a municipality may petition for dissolution when the municipality is free of debt, or, if in debt, each of its creditors is satisfied with a method of repayment and

(1) the municipality no longer meets the minimum standards prescribed for incorporation by AS 29.05, or former AS 29.18.030 if it is a third class borough;

(2) the municipality ceases to use each of its mandatory powers; or

(3) the dissolution petition filed under AS 29.06.460 is signed by a number of voters of the municipality proposed to be dissolved greater than 50 percent of the number of votes cast in the last regular election in that municipality.

(b) Voters of a city in a borough may petition for dissolution of the city if the borough consents to assume the city's rights, powers, duties, assets, and liabilities. The consent must be ratified by a majority of borough voters voting on the question. (§ 5 ch 74 SLA 1985; am § 1 ch 35 SLA 1988; am § 20 ch 58 SLA 1994)

**Effect of Amendments.** — The 1994 amendment, effective August 22, 1994, substituted “last regular election” for “last general election” in paragraph (a)(3).

The 1988 amendment, in subsection (a), substituted "the municipality" for "it" in paragraph (1), deleted "or" at the end of paragraph (1), added "or" at the end of paragraph (2), and added paragraph (3).

**Sec. 29.06.480. Review.**

(a) The department shall review a dissolution petition for content and signatures, and shall return a deficient petition for correction or completion.

(b) If the petition contains the required information and signatures, the department shall investigate the proposal. (§ 5 ch 74 SLA 1985)

**Sec. 29.06.490. Report and hearing.**

(a) The department shall report its findings to the Local Boundary Commission with its recommendation regarding the dissolution of a municipality.

(b) The Local Boundary Commission shall hold at least one public hearing in the municipality proposed to be dissolved. (§ 5 ch 74 SLA 1985)

**Sec. 29.06.500. Decision.**

(a) The Local Boundary Commission may amend the petition and may impose conditions for the dissolution. If the commission determines that the dissolution, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, meets the standards for dissolution under AS 29.06.470, and is in the best interest of the state, it may accept the petition. Otherwise it shall reject the petition.

(b) A Local Boundary Commission decision under this section may be appealed under AS 44.62 (Administrative Procedure Act).. (§ 5 ch 74 SLA 1985; am § 2 ch 35 SLA 1988; am § 21 ch 58 SLA 1994; am § 5 ch 86 SLA 1999)

**Revisor's Notes** — In 1988, preceding the phrase "meets the standards" in the third sentence of (a) of this section, the word "petition" was substituted for "municipality" to correct a manifest error in ch. 35, SLA 1988.

**Effect of amendments.** — The 1999 amendment, effective September 28, 1999, rewrote subsection (a).

The 1994 amendment, effective August 22, 1994, in subsection (a), deleted the former second sentence, relating to municipality standards under AS 29.06.470(a)(1) or (2), made a section reference substitution in the present second sentence, and added the last sentence.

The 1988 amendment, in subsection (a), inserted "under AS 29.06.470(a)(1) or (2)" in the second sentence and added the third sentence.

**Legislative history reports.** – For Senate letter of intent relating to the amendment to (a) of this section by sec. 2, ch 35 SLA 1988 (CSSB 50 (RIs) am), see 1987 Senate Journal 847.

### Sec. 29.06.510. Election.

(a) The Local Boundary Commission shall immediately notify the director of elections of its acceptance of a dissolution petition. Within 30 days after notification, the director of elections shall order an election in the municipality to determine whether the voters desire dissolution. The election must be held at least 30 and not more than 90 days after the election order unless such timing would cause the election to be held between May 1 and November 1. If the director of elections receives notification after April 1, but before October 1, the election shall be held within 60 days after November 1. A person who is a voter of the municipality may vote in the dissolution election.

(b) The director of elections shall supervise the election in the general manner prescribed by the AS 15 (Election Code). The state shall pay all election costs.

(c) The director of elections shall certify the election results. If dissolution is approved by a number of voters greater than 50 percent of the number of people registered to vote in the municipality, the director of elections shall declare that the municipality is dissolved effective on the date of certification. (§ 5 ch 74 SLA 1985; am §§ 3, 4 ch 35 SLA 1988)

**Effect of amendments.** — The 1988 amendment inserted "by a number of voters greater than 50 percent of the number of people registered to vote in the municipality" in the second sentence in subsection (c) and, in subsection (a), added "unless such timing would cause the election to be held between May 1 and November 1" at the end of the third sentence and inserted the fourth sentence.

### Sec. 29.06.520. Succession.

A municipality succeeding to a dissolved municipality succeeds to all rights, powers, duties, assets, and liabilities of the dissolved municipality. Otherwise, the state succeeds to those rights, powers, duties, assets, and liabilities. If the state succeeds to a dissolved municipality, the state may enter into a contract for the performance of duties or powers in the area of the dissolved municipality. However, a contract with an organization for the performance of duties or powers entered into under this section does not constitute recognition by the state of governmental powers of that organization. (§ 5 ch 74 SLA 1985; am § 5 ch 35 SLA 1988; am § 22 ch 58 SLA 1994)

**Effect of amendments.** — The 1994 amendment, effective August 22, 1994, inserted "rights, powers, duties" in the first and second sentences and made related stylistic changes.

The 1988 amendment added the last three sentences and rewrote the first sentence, which read "The government succeeding to a dissolved municipality succeeds to all its rights, powers, duties, assets, and liabilities."

**Cross references.** – For provisions relating to land of certain dissolved first and second class cities, see AS 44.47.150.

***Opinions of attorney general.*** – The policy expressed by a full reading of Title 29 is that municipal alterations though such devices are mergers, consolidations, and dissolutions, should not be used to arbitrarily enlarge the rights granted in AS 29.65. To permit a municipal alteration to trigger a new entitlement without regard to prior conveyances under AS 29.645 or 38.05.810 would result in certain municipal lands being counted twice in the determination of a municipal entitlement. December 14, 1993 Op. Att’y Gen.

**Sec. 29.06.530. Application.**

AS 29.06.450 - 29.06.530 apply to home rule and general law municipalities. (§ 5 ch 74 SLA 1985)